

HUMAN EVENTS

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# FOIA: A Good Law That Must Be Changed

*Although it started out as a commendable strengthening of the people's right to know, the Freedom of Information Act, at a cost of millions per year, now protects the "right" of radicals, criminals, left-wing organizations and even hostile foreign governments to rifle the files of sensitive U.S. government agencies—and to use such information to harass, hamstring and otherwise impede law enforcement agencies in their efforts to prosecute criminals for their acts.*

By FRANCIS J. McNAMARA



*After her escape from prison (she is still at large), black radical Joanne Chesimard (left) was found to have had in her possession hundreds of FBI documents obtained by a FOIA request. U.S. Communist party member Angela Davis (right) called for demonstrations demanding Chesimard's release while Chesimard was being held in connection with the murder of a state trooper.*

The Freedom of Information Act (FOIA), in many ways, is a highly desirable law. The Supreme Court itself has written approvingly of the freedom-preserving principles on which it is based.

FOIA's basic concept is that to preserve their free, representative government and the rights its Constitution confers on them, Americans must be informed about that government — what it is doing, how and why it is doing it. How can they vote intelligently if they are not so informed? How can they learn of inefficiency or corruption and act to eliminate them? How can they perform the many other duties of good citizenship?

The logic of the case for a right-to-information law is unassailable.

The FOIA obliges all government agencies to provide you with documentary evidence of their activities when you request it. If an agency denies your request, claiming — you believe unjustly — one of the exemptions the law provides for types of information that should be held confidential, you may take it to court. A federal judge will review the matter.

If the agency claimed a national security exemption, for example, he can examine the withheld classified documents in secret, and he will weigh an agency affidavit explaining why and how the documents were properly classified originally and why they still cannot be revealed. The burden of proof will be on the agency. The judge can order the documents declassified and released to you.

He can also rule that the government will pay all your court costs and attorney fees and that, because the documents are in the public interest, you will not have to pay the normal costs of researching and reproducing them.

It sounds great. But when practical applications of the law are examined, it becomes clear that there are very real dangers to Americans and the nation in it.

Why? Because as presently written, it fails to balance the government's right (i.e., the public's interest) in the confidentiality of certain material against any one individual's right to know — a right that is very clearly limited by the

Constitution, the law and the general welfare.

Consider the case of Joanne Deborah Chesimard, also known as Assata Shakur:

In the pre-dawn hours of May 2, 1973, State Trooper James Harper pulled a car off the New Jersey Turnpike for speeding and radioed for a backup

before approaching it. Trooper Werner Foerster responded and, while Harper talked to the driver at a patrol car (there was a license-registration discrepancy), spoke to the passengers. The one woman in the car pulled a gun and shot Foerster. About 30 rounds were fired in the gunfight that followed. Harper, wounded in the shoulder, managed to walk several hundred yards to the Turnpike administration building for help. The car was gone when other troopers arrived. Foerster lay on the ground, dying. Four handguns were recovered in the area.

A few minutes later, some miles to the south, another trooper saw a car pull off the Turnpike and a man flee into the woods. In the car he found James F. Coston Jr., former deputy minister of information for the Black Panther party, dead — and Joanne Chesimard with bullet wounds in both arms and a shoulder. The car contained a large quantity of false identification papers (passports, birth certificates, credit and Social Security cards).

The man who fled into the woods, Clark Squire, was captured the next day. He and Chesimard were indicted for killing Foerster.

It was not Chesimard's first violent crime. When the FBI, in September 1972, had issued a wanted poster for

her based on her alleged participation (with five others) in a Queens, N.Y., gunpoint bank robbery in August 1971, the poster noted that one of her identifying marks was a gunshot wound scar on her abdomen. Only 25, she had already used seven aliases. And she was even known as the "soul" of the Black Liberation Army (BLA), a terrorist

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group that grew out of the Eldridge Cleaver faction of the Black Panther party and specialized in killing policemen.

The poster on Chesimard warned that she was "closely associated with persons who are alleged to be armed with explosives and a variety of guns, including automatic rifles and handguns. She should be considered armed and dangerous."

The FBI's 1973 annual report stated that, since the beginning of that year, the killing of two policemen and injuring of nine others had been attributed to the BLA, and that two months before the Turnpike incident the BLA had issued a communique:

"Yes, we take credit for killing pigs, bank robberies, jail breaks, skyjackings, etc. We also take credit for the recent ambushes on the pigs."

The Bureau's 1974 report said the BLA had netted about \$500,000 from "expropriations" — robberies to finance revolutionary activity.

Shortly before Chesimard's capture, it was announced that New York City police were looking for her and five others for questioning in the killing of two policemen in January 1972. While in jail waiting trial for killing Foerster, she and eight other BLA members were indicted for a series of attacks in which

four police were killed; she and two BLA fugitives were indicted for robbing a Brooklyn bar and kidnapping the bartender, and she was also indicted for a robbery-killing at a Brooklyn social club in January 1973.

After she recovered from her wounds, the first effort to convict her of killing Foerster ended in a mistrial because she had pregnancy complications. Her co-defendant, Clark Squire, was sentenced to life in prison.

Communist party leader Angela Davis, also a Black Panther, meanwhile had called for demonstrations on Chesimard's behalf. Several defense committees were formed and, as her second trial began, demonstrations were held outside the heavily guarded courtroom. (Singer Harry Belafonte had chaired an earlier rally for her in New York City; a criminal court judge addressed it.) Chesimard, too, was given a life sentence.

The BLA tried to break Clark Squire out of prison on Jan. 19, 1976. The five-hour gun and homemade bomb fight involving him and about 40 other prisoners left one inmate dead, and another and three officers seriously wounded. Squire did not escape.

But Chesimard did—on Nov. 2, 1979. She had three "visitors" that day, all of whom matched descriptions she had previously provided prison authorities and carried appropriate false identification documents. With guns they had smuggled into the prison, she and they seized two prison guards, commandeered a minibus used to shuttle visitors onto the prison grounds and, with the guards as hostages, drove to the parking lot of a nearby school for the mentally retarded where two escape vehicles awaited them. They released the guards and took off. She is still free.

What does the FOIA have to do with this incident of revolutionary terrorist robbery, murder and cop-killing?

**Authorities found in Chesimard's prison cell 327 documents totaling 1,700 pages of FBI information about herself and the BLA she had obtained by a simple FOIA request. She had been studying them before her escape.**

The head of the New Jersey State Police, Col. Clinton Pagano, had an analysis made of the documents and sent copies of it to FBI Director William Webster and Atty. Gen. Benjamin Civiletti, in addition to personally calling Webster. Pagano's conclusion:

Chesimard not only learned the

names of government informants from the documents, but went to the very heart of the operations of the Bureau and other enforcement agencies. She learned our techniques; she learned how to anticipate what we would do."

According to Webster, Pagano also told him that the knowledge Chesimard obtained from the FOIA papers impaired FBI and state efforts to apprehend her, that "without question, Joanne Chesimard has an in-depth knowledge of the procedures of your agency," and that "the working relationship between the New Jersey State Police and the FBI has suffered accordingly."

Can Pagano be blamed for deciding to end the former free flow of criminal and domestic security intelligence the New Jersey State Police had provided to the FBI? His first duty was to the welfare of his state, the police force he heads, its troopers, and all their sources of information. He could not protect them as he should if he continued giving detailed investigative information they collected to the FBI, when a federal law meant that it must turn much of this information over to killer terrorists.

This is just one of many documented cases in which, because of the FOIA, the FBI has lost the full cooperation of state or local police or other law enforcement-security agencies, and of numerous individuals (including even judges), who no longer provide it with the kind of information it must have to carry out its duties successfully.

There is more to the Chesimard-FOIA story. The October 1981 robbery of \$1.6 million from a Brink's armored car in Nanuet, N.Y., led to the killing of two police officers and a Brink's guard, the recovery of the loot, the arrest of Weather Underground fugitive Kathy Boudin, and revelation of the existence of the May 19 Communist Organization, a terrorist "expropriation" conglomerate which has also benefited by the FOIA. The group is composed of members of Chesimard's BLA, the Republic of New Africa, Weather Underground Organization (WUO), Prairie Fire Organizing Committee (aboveground support group for the WUO) and, possibly, the FALN.

The Republic of New Africa (RNA) is a violence-addicted black separatist group which wants to establish an independent black republic in certain southern states. RNA members killed one policeman in a 1969 shootout in Detroit; they killed another, and wounded one policeman and an FBI agent, in a 1971 shootout in Jackson, Miss. Individual members of the RNA have been involved in other killings. The RNA, like Chesimard, has used the FOIA to get FBI information about the group and its members — following up its initial request with a lawsuit.

Of the WUO members charged in the Brink's robbery-murders, five had filed FOIA requests for FBI information on themselves and four of them had obtained files; two were actually involved in FOIA suits against the FBI, trying to get additional files, at the time of their arrests.

From 1975 to 1981, over 70 WUO

members and former members filed FOIA requests with the FBI. Attorneys for one fugitive filed an FOIA request for all records of the Bureau's "Weatherfug," code name for the FBI's effort to locate and apprehend the 20-odd WUO leaders and members who were fugitives in the early 1970s. In addition, an FOIA request compelled the FBI to give over 60,000 pages of Bureau information on the group to a West Coast attorney representing peo-

ple associated with the WUO.

Authorities are looking for Chesimard in the Brink's case. Seven of those charged in it have also been indicted for plotting her prison break, and four of them for taking part in it. Two have been convicted of helping her escape.

FBI Director Webster has stated that those involved in the Brink's case "have made thorough use" of the FOIA. He wonders about just how much FBI FOIA documents aided them in the Brink's and other expropriation robberies the group is now suspected of. "We never know what use groups and individuals may be making of information released under the FOIA," he has testified.

**Not only revolutionary killer terrorists, but organized crime and drug traffickers profit by the FOIA.**

Gary Bowdach, who had spent his life in organized crime, and five years in the penitentiary, revealed that, while in prison, he had used the FOIA to find out whether the government had other investigations pending against him and in an effort to discover who had informed on him. He did not learn the identity of his informant, but believed he succeeded in learning who had informed on a friend — and passed on the information. What happened to the informant?

"I don't think the man is among the living any more," he said. A "jailhouse lawyer," Bowdach filed FOIA requests with every government agency he thought would have a file on him—the FBI, IRS, Drug Enforcement Agency, U.S. Attorney's office, and Bureau of Alcohol, Tobacco and Firearms. He also filed requests for other convicts.

Organized crime, he testified, made widespread use of the FOIA for the same reasons he had. He had no per-



Revolutionary Kathy Boudin (left), a member of the Weather Underground Organization and one of several involved in the New York Brink's murder-robbery, filed requests for FBI records under FOIA. Gary Bowdach (right), with a record of involvement in organized crime, had used the FOIA while in prison in an effort to learn who had informed on him.

sonal knowledge of informants identified and killed as a result of these requests, but believed the effort was very successful. "With these [organized crime] people, people tend to 'disappear,' " was the way he put it.

Bowdach explained how informants might be identified, even though the FOIA provides for the deletion of their names from released documents. Usually it's a case of human error.

"In some instances, deletions are not

totally complete. They would leave one letter, [you] take the amount of space that was deleted...take that letter, backspace, see what position that letter is placed in the name, and from that letter [you] are able to determine the name of the informant."

Even when deletions are complete, he said, "just details of the report could also reveal the identity of the informant.... If I know that I had a meeting with you on such and such a date, and in a certain restaurant in Miami, and I got a report a year later and it said a confidential informant who met with Bowdach at such and such a restaurant on such and such a date, revealed to us that such and such happened, I don't have to know your name. I've just got to think, remember who I had a meeting with at that time and that place, and I come up with you."

To capitalize on the human error element, Bowdach would sometimes file identical FOIA requests with the same agency several times—on the theory that one person would handle the first request, another the next one and, if he was lucky, each would make some error that would result in his getting information he should not have.

FBI officials have repeatedly confirmed Bowdach's testimony about extensive organized crime utilization of the FOIA to hamper law enforcement. Director Webster testified in 1982, for example, that organized crime elements in Detroit had earlier been instructed to file requests and that, as of the time he testified, the Bureau had received 38 in response to those orders. The list of requesters, he said, was "like a Who's Who in organized crime in Detroit." Their requests resulted in over 12,000 pages of FBI information on organized crime operations in that area being turned over to them.

Sixteen per cent of FBI FOIA requests, it is estimated, come from prison inmates. The Drug Enforcement Agency gets 40 per cent of its requests from convicted felons, many of them serving time when they file them.

The case of Philip Agee reveals another aspect of the dangers in the FOIA.

Since openly proclaiming his intention to destroy the CIA in 1974, Agee has worked diligently at that task via books (one written with the help of the Cuban Communist party), personal appearances, foreign travels and two publications, *CounterSpy* and *Covert Action Information Bulletin* (which Castro helped him launch). The Supreme Court has found that his activities threaten the security of this and other nations.

Agee—no dumbbell—filed an FOIA request with the CIA and other agencies in 1977, asking for all the information they had on him. Unsatisfied with their responses, he had his ACLU attorneys file FOIA suits for him in 1979 (he was then in Germany—after being expelled from England and other countries for his contacts with hostile intelligence agents).

His suit compelled the CIA to search for 8,699 documents in its files covered by his request. After carefully analyzing them, it refused to release 8,175 of them in their entirety, citing various FOIA exemptions — and gave him 524 in part only.

District Court Judge Gerhard Gesell upheld the CIA position in July 1981, ruling that its denials were justified (except for five letters from congressmen he ordered delivered to Agee on the ground that the FOIA did not protect them). Gesell commented as follows on the case in his decision:

"It is amazing that a rational society tolerates the expense, the waste of resources, the potential injury to its own security which this process necessarily entails."

He footnoted this concluding comment with these facts: The CIA, at the beginning of 1981, had spent 25,000 man-hours on Agee's request; the salaries involved totaled \$327,715 and computer costs, \$74,750. He added, "The costs now far exceed this sum."

And they will go far beyond Agee's CIA suit total. By the time his suits against the State and Justice departments, the FBI and the supersecret National Security Agency (NSA) are settled, the costs will be enormous.

The congressional committee largely responsible for the 1974 amendments to the act which created the many dangers now inherent in it, estimated that those changes would cost only \$50,000 the first year and \$100,000 for each of the next five years. But FOIA now costs the government about \$50 million a year.

Since the amendments became effective in 1975, the FBI alone has spent over \$55 million on FOIA work; its annual costs now run about \$12 million and it has over 300 of its personnel (who should be fighting spies, crime, terrorists and subversion) working full-time on FOIA. It receives about 20,000 requests per year, compared to a few

hundred pre-'75 when less than a dozen employees worked on FOIA at a cost of about \$160,000 per annum.

Over 23,000 individuals and groups have filed FOIA requests with the CIA. Many have filed multiple requests, so the total is much greater than that figure. In 1980, the CIA received over 1,200 new requests and its backlog of 2,700 unanswered demands grew by 400, although it had assigned additional personnel to FOIA work.

The CIA is fighting 200 FOIA lawsuits designed to pry sensitive secrets from its files, has 200 people (who should be doing vital intelligence work) assigned to FOIA matters and is expending over 250,000 man-hours and about \$3 million per year complying with the law.

NSA, engaged in highly sensitive code and signal intelligence, gets about 400 FOIA requests per year, although much of its information is barred from disclosure by statute. It is involved in about a dozen FOIA suits and spends about \$500,000 per year on FOIA.

DIA—the Defense Intelligence Agency—receives about 90 requests per year from foreign nationals. The CIA receives "many" requests for documents in its files from abroad—facts that emphasize an amazing feature of the FOIA: it is a law that can be used by anyone in the world to obtain documents from the files of U.S. government agencies, including those dealing with the most sensitive defense, intelligence and foreign policy matters. The American taxpayer foots the bill for this global boondoggle through a law that actually serves as an instrument of lawful espionage against this country.

**The implications of what Joanne Chesimard and her BLA, the RNA, WUO and organized crime have learned from the FOIA are frightening; what hostile nations can learn poses a much greater danger.**

The FBI knows that the KGB is using the FOIA to its advantage. The highest-ranking Soviet official to defect to the U.S., Arkady Shevchenko, former assistant secretary general of the United Nations, has stated that Soviet journalists have used American "friends" to file FOIA requests for them—and it is a matter of public record that the Soviet news agency Tass (long used as a cover for spies), has filed FOIA requests with the State Department. Shevchenko has branded the FOIA as "stupid," because it gives Moscow information "on a golden plate."

Judge Antonin Scalia of the U.S. Court of Appeals has revealed that when he was assistant U.S. attorney general in the mid-'70s, NASA was concerned because it was getting a "regular series" of FOIA requests from the Soviet trading company, Amtorg (which has been used for Soviet espionage since the 1930s). NASA officials contacted the Department of Justice to see if there was anything they could do to avoid supplying the information Amtorg asked for. The answer: "No."

A left-wing group that has made extensive use of FOIA and is fighting any changes in it recently published a summary of 500 FOIA request cases which

allegedly demonstrate the great benefits of the law for the American people. In most cases the summaries contain the identity of the requester. It had the gall to include one which, though somewhat vague, was revealing: "Representatives of the Soviet Union."

Most media representatives and many members of Congress are staunch FOIA defenders. They oppose any changes in the law, insisting that its exemption provisions provide adequate protection for sensitive information. That is not true.

The human error element which Bowdach mentioned and counted on cannot be eliminated. Any person who has to sit all day long, day after day,

endlessly screening thousands of pages of closely typed reports, inevitably becomes somewhat fuzzy-minded and makes errors. Moreover, there are other factors that make error certain.

FOIA requires that agencies respond to a request in 10 days and an appeal from a denial in 20—a time limitation no sensitive agency has been able to meet (all have been flooded with requests) and which has led to hundreds of suits. These suits remove control of the screening from the agency, turning it over to judges who too often have little appreciation of security needs. What happens then? A few examples:

In one CIA case, the judge ordered that 50,000 pages be screened and released in four months.

The sons of executed atom spies Ethel and Julius Rosenberg requested, and then filed suit, for FBI documents on their parents. The FBI had to screen over 480,000 pages of documents in response to this suit. When the judge ordered that they be released at the rate of 40,000 per month, it was necessary to assign more than 50 agents to the task. About 160,000 documents on this major espionage investigation became public as a result of the suit.

In the RNA FOIA suit, the FBI almost begged the judge to allow it three months to release the estimated 70,000 pages of documents involved.

Richard Dhoruba Moore, convicted killer and thief, while imprisoned, had his attorneys file suit, following up his request for information on the New York chapter of the Black Panther par-



Phillip Agee, long involved in efforts to destroy the effectiveness of the CIA, filed an FOIA suit with the agency demanding the records it had on him. Later, the CIA estimated 25,000 man-hours and almost \$400,000 had been expended in connection with his suit.

ty, of which he had been an official. At one point in the trial of the case, the FBI, releasing 2,000 to 3,000 pages per week to Moore's attorney, asked the judge to grant it 39 more weeks, at the rate of 2,000 per, to complete turning over to Moore all the documents he obtained.

Is proper screening possible when documents must be released in such tremendous quantities and at such a speed? Obviously not.

There are other built-in error factors. The most expert CIA intelligence officer or FBI counterintelligence agent can never know how much the KGB or some other foreign intelligence agency knows about the situation or individual on which he is screening papers. He can

therefore never tell whether or not information he is clearing for release will fill in some gap in its knowledge, providing it with extremely valuable information.

And how could anyone working on a huge release recall some little detail on page number 12 or 37 that just might tie in with some other details on pages 3,968 or 5,169 with the same result? And when, as is often the case, a number of people must work on a request, how can adequate cross-checking of such items be done?

Even the classification of documents does not protect adequately. In the Agee case, Judge Gesell noted that of the 8,699 documents found, 8,127 were classified and that 8,324 actually concerned CIA sources and methods (which must be protected at all costs). This means that 197 documents about sources and methods lacked the protection of classification. Moreover, seemingly non-sensitive information can be dangerously revealing. Gesell went to the CIA's headquarters to secretly inspect many of the documents at issue in the Agee case. He stated in his decision:

"Specific instances illustrating how readily identity of sources, for example, may be compromised by release of data not itself sensitive were noted by the Court during its *in camera* inspection."

Finally there is the fact that unqualified judges, arrogantly overruling the carefully considered judgments of concerned, highly professional intelligence-security

officials, can order documents declassified—and have done so.

The international effects of FOIA are the same as the domestic and for the same reasons. Top officials of every U.S. intelligence agency—the CIA, NSA, DIA, DEA, FBI and State Department — have testified that FOIA is drying up their sources of information, that their ability to do their jobs and the security of the United States have been heavily damaged because of it. Those within the intelligence community fear that they, or their sources, will be compromised by its compelled revelations.

Deputy CIA Director Frank Carlucci testified in 1980: "The chief of a major foreign intelligence service sat in my office and flatly stated he could no longer fully cooperate as long as the CIA is subject to the Freedom of Information Act."

CIA Director William Casey testified in 1981 that 15 friendly foreign intelligence services had taken the same position. Because the best intelligence services in the world are those most careful about protecting themselves (and their sources), it follows not only that the quantity loss to the U.S. but the quality loss has been tremendous.

The same is true of individual agents, whose reputations, and lives, and those of their families are threatened. Our agent network, Casey declared, is "in jeopardy." He offered to give "many examples" to illustrate this in secret congressional hearings.

Even the government's own officials and employees are "drying up." Remember Jonestown, Guyana, where over 900 Americans were either shot to death or induced into agonizing cyanide suicide in 1978 by the Communist "Reverend" Jim Jones and his lieutenants?

Two official investigations blamed the FOIA for contributing to the tragedy. State Department officials in Guyana knew Jones was filing FOIA requests to get copies of what they reported to Washington about him. Fearing suits or other action by him, they limited their reporting and Washington never received full indications of the possible dangers in the situation there.

International terrorist incursions into the United States have concerned security officials for years. The FOIA is so poorly conceived that it has compelled the Nuclear Regulatory Commission (NRC) to release a series of security studies that would assist both international and domestic terrorists in sabotaging nuclear power plants, causing deadly radioactive leakage, or in stealing uranium for a homemade "basement" nuclear bomb.

One released study, for example, contains detailed information on the best tools (including explosives) to use to break through 32 different types of fences and barriers used to protect U.S. nuclear plants, along with the time requirements. A former NRC inspector has said that, with this information, terrorists could break into a plant, sabotage vital equipment and cause radioactive release "in as little as 10 minutes."

Three years ago, CIA Deputy Director Carlucci pointed out "the very real possibility that an orchestrated effort by persons hostile to the Agency could literally swamp the Agency with FOIA requests... [they] could perfectly legally make unlimited requests and follow up with litigation... entirely within the U.S. legal framework they could sabotage the normal mission of the Agency."

And, of course, what they could do to the CIA, they could do to other agencies.

Obviously, changes are needed in the FOIA—urgently. The Carter Administration wanted them. The Reagan Administration has proposed some. Bills were introduced in the last Congress and have been introduced in this one. Hearings have been held.

**But there will be no changes if certain elements—so far successful in blocking proposed amendments—have their way.**

What elements are these? They are a mix of groups and individuals who launched an orchestrated FOIA-exploitation campaign against intelligence agencies years ago, long before Carlucci mentioned the possibility of one. The campaign actually had its origins in 1970, when the American Civil Liberties Union (ACLU) launched a nationwide drive against U.S. intelligence collection. That same year, the ACLU set up a front, the Committee for Public Justice (headed by the unrepentant ex-Communist, Lillian Hellman, and Ramsey Clark), to spearhead the anti-FBI and anti-Department of Justice aspect of its campaign. It also hired a thrice-identified Communist—still a supporter of Communist causes though he had



*Arkady Shevchenko, who defected from the USSR, has stated that Soviet journalists have used American friends to file FOIA requests for them to obtain highly classified information.*



denied recent party membership under oath—to direct the research end of its campaign.

In 1972 and 1973, aware of the beneficial impact they would have on its anti-intelligence effort, the ACLU lobbied for proposed FOIA amendments enacted in 1974, while continuing its intelligence undermining efforts through research, lawsuits against local, state and federal agencies and use of the FOIA.

In 1974, the year the FOIA amendments were enacted, the Fund for Peace set up an anti-intelligence group in Washington called the Center for National Security Studies (CNSS), staffed largely by the Institute for Policy Studies (IPS), Washington's far-left "think tank." The following year, with the FOIA amendments now in effect, the ACLU joined the CNSS in a combined anti-intelligence project designed to capitalize on the irresponsible ongoing Church and Pike committee hearings.

The FOIA became a major instrument of their effort to obtain vast quantities of documentation on American intelligence, establishing the CNSS as the principal resource center of the Left for information about U.S. intelligence operations.

The ACLU-CNSS combine, in addition to filing numerous FOIA requests and lawsuits with and against all intelligence agencies, undertook an intensive effort to induce others to flood the agencies with similar actions. It did this by widespread distribution of "how-to" FOIA pamphlets and brochures, by numerous FOIA articles in their projects periodical, *First Principles*, by publication of a detailed FOIA litigation manual and holding annual national FOIA litigation conferences.

In 1976, taking advantage of the impact of the Church committee reports, the first CNSS director, Robert Borosage (a National Lawyers Guild member, now back at IPS), set about organizing a nationwide anti-intelligence coalition with the help of the ACLU, CNSS, IPS and a group Agee's *CounterSpy* helped create, the Public Education Project on the Intelligence

Community. This coalition surfaced in 1977 as the Campaign to Stop Government Spying, with 30-odd group affiliates. The ACLU man who had succeeded Borosage as CNSS director, Morton Halperin, emerged as its leader (he has also been associated with the ACLU's Committee for Public Justice, the IPS and Philip Agee).

The FOIA became a major focus of the National Campaign to Stop Government Spying which, since its formation, has worked closely with the ACLU's CNSS. With Morton Halperin directing both operations, this is hardly surprising (while the Fund for Peace still helps finance the CNSS, it has in effect been taken over by the ACLU).

From the beginning, the Campaign — rechristened the "Campaign for Political Rights" (CPR) in late 1978—has consistently urged its affiliated groups (now numbering about 80) and their individual members to file FOIA requests and lawsuits. Today, like the ACLU and CNSS, it is also engaged in an intensive effort to block any changes in the FOIA that would weaken it as an anti-intelligence weapon.

Though the ACLU has obviously played a major role in FOIA-exploiting anti-intelligence activities, it has not done it all alone. The National Lawyers Guild, the officially cited "legal bulwark" of the Communist party, has also been prominent in the operation, supplying (along with ACLU attorneys) much of the legal talent for FOIA lawsuits.

Groups such as the National Emergency Civil Liberties Committee (another cited Communist front for which Kathy Boudin's father, Leonard, serves as general counsel), and the Center for Constitutional Rights, set up by William Kunstler and other ultra-radical NLG attorneys, have also made significant contributions.

The Campaign for Political Rights (CPR) numbers among its affiliated organizations, in addition to the ACLU, CNSS, CPJ, NLG, IPS, CCR and NECLC, such groups as Americans for Democratic Action, the Black Panther party, *CounterSpy*, *Covert Action Information Bulletin*, a string of other Communist fronts and openly

radical or revolutionary organizations, Common Cause, the National Organization for Women, and about a dozen church-related bodies.

One of the more interesting CPR affiliates is "FOIA, Inc."—the Fund for Open Information and Accountability, Inc.—whose "star" is film and TV actor Ed Asner ("Lou Grant"). Both the group's president and general counsel have invoked the 5th Amendment when questioned about Communist party membership. The KGB once allocated \$10,000 to one of its executive committee members. Its sponsors include two convicted spies and a string of identified Communist party members. One of its lawsuits compelled the FBI to release 160,000 pages of details on its investigation of the Rosenberg espionage case.

Spearheading the drive to block any beneficial FOIA amendments, FOIA, Inc., is conducting a National Campaign to Save FOIA. Asner, one of its initial financial contributors and sponsors, represented FOIA, Inc., in 1981 House hearings in support of the Campaign. Accusing intelligence agencies of "massive illegal" actions, he vowed, "We will not let that tool [the FOIA] be ripped from our hands," and concluded his presentation with the exhortation, "Do not let anybody get exempted from the FOIA."

Those who wonder why there has been a hemorrhaging of U.S. intelligence secrets through FOIA requests and lawsuits in recent years—with a consequent serious weakening of U.S. security—and why it has proved difficult to amend the law in the national interest, should look to the ACLU and the CPR, and their friends in Congress.

The ACLU-CNSS-CPR combine has not succeeded in completely sabotaging the mission of the CIA, as Carlucci feared might be done—but not for lack of trying. It has succeeded in seriously impairing the capabilities and security not only of the CIA, but of the FBI and other intelligence agencies as well. Not wanting to lose what it has found to be the most effective weapon in its anti-intelligence campaign, it will bitterly fight all positive changes in the law. As Asner said, "We will not let the tool be ripped from our hand." ■



Two official investigations blamed the FOIA for contributing to the tragedy of Jonestown, Guyana, in 1978. The "Reverend" James Jones had been busy filing FOIA requests to force Washington to reveal what they had on his activities.